

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ZEBBIE STEWART, :
CIVIL ACTION :
Plaintiff, :
 :
v. :
 :
DENNIS MOYER, et al., :
Defendants. :
NO. 96-8091

MEMORANDUM ORDER

J.M. KELLY, J.

JUNE , 1997

Presently before the Court is a Motion to Dismiss filed by Defendants John Ashbaugh, P.A. ("Ashbaugh"), Dennis Moyer ("Moyer") and William Sprague ("Sprague") (collectively "Medical Defendants"). Plaintiff has filed a Response and Medical Defendants have filed a Reply. Plaintiff's pro se Complaint against the Medical Defendants claims Eighth Amendment violations based upon medical maltreatment in interfering with prescribed medical treatment.

As Plaintiff is proceeding pro se, the Court must give him wide latitude in presenting his claim. It appears from the Complaint that Plaintiff alleges that Ashbaugh and Sprague were aware of his serious medical condition, asthma, and interfered with his prescribed treatments. Accordingly, it is ORDERED that the Motion to Dismiss of Defendants Ashbaugh and Sprague is DENIED.

Plaintiff's Complaint and Response rely upon Moyer's supervisory position as a basis for his liability. For a supervisory officials to be held liable for an Eighth Amendment medical maltreatment claim, Plaintiff must show that the officials were "aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and [they] must also draw the inference." Farmer v. Brennan, 511 U.S. 825, 837 (1994). Plaintiff merely alleges and argues that Moyer disregarded the acts of those who he supervised. Accordingly, it is ORDERED that the Motion to Dismiss of Defendant Moyer is GRANTED and Plaintiff's Complaint against Defendant Moyer is DISMISSED.

BY THE COURT:

JAMES MCGIRR KELLY, J.